

### **Remarks**

The present Amendment and Response is believed to be fully responsive to the Non-final Office Action dated June 10, 2008 and is being filed concurrently with a Petition for an Extension for a Three Month Extension of Time. After entry of the present Amendment and Response, Claims 76-96 remain pending. Claims 1-75 were previously cancelled without prejudice. It is respectfully submitted that no new matter has been added by the foregoing amendments. Reconsideration of the application is requested in view of the following remarks.

A telephonic Examiner's Interview for the present patent application was conducted on October 22, 2008. In the Interview, the Examiner indicated that the Office Action contained numerous errors and that it would be reissued. The present Amendment and Response is being filed to ensure that the pendency of the present application is maintained because the Office Action has not yet been reissued.

### **Objections to the Specification**

In the Office Action, the Abstract was objected to for including phrases which could be implied. However, it is respectfully submitted that the Abstract was amended in the Amendment and Response filed on March 13, 2008 in order to remove any phrases which could be implied. Accordingly, it is respectfully asserted that the Abstract satisfies the requirements of MPEP § 608.01(b).

### **Double Patenting Rejection**

In the Non-final Office Action, Claims 76-96 were objected to under 37 C.F.R. § 1.78(b) as conflicting with Claims 1-30 of U.S. Pat. App. No. 10/608,420 (hereinafter the '420 application). In particular, the Office Action contends that the claims of the two applications conflict with one another and requires cancellation of the conflicting claims.

In response, it is respectfully submitted that U.S. Pat. App. No. 10/608,420 was abandoned on May 22, 2008. Accordingly, there is no conflict between the pending claims of the present application and those in the '420 application.

Furthermore, it is respectfully submitted that Claims 76-96 of the present application and Claims 1-30 of the '420 application do not conflict with one another. Specifically, the relevant claims of the '420 application relate to a risk-based determination of a debit type for a payment. The selected or determined debit type is utilized to determine a form of debiting a payor. In contrast, Claims 76-96 of the present application relate to the determination of a form of crediting a payee for a payment. Accordingly, it is respectfully asserted that the Claims 76-96 of the present application do not conflict with Claims 1-30 of the '420 application.

Nonetheless, to the extent that any conflict exists, a terminal disclaimer was submitted on March 13, 2008, and it is respectfully submit that the double patenting rejection is traversed by the terminal disclaimer.

#### **Claim Rejections Under 35 U.S.C. § 112**

##### ***Rejections Under 35 U.S.C. § 112, First Paragraph***

In the Non-final Office Action, Claims 76-96 were rejected under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement. Specifically, the Office Action contended that the claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventors, at the time the application was filed, had possession of the claimed invention. The Office Action set forth several rejections for independent Claims 76, 86, and 96, which are discussed in greater detail below.

First, the Office Action contended that there is no disclosure in the Specification to support the element of paying a single consolidated payment to the merchant based upon the payment directive prior to completion of a transfer of funds from at least one of the plurality of deposit accounts to the second account. Second, the Office Action contended that there is no disclosure in the Specification to support the element of making a consolidated payment utilizing debit directives for debiting a respective one of the associated amounts from a respective one of

the plurality of deposit accounts, each respective deposit account associated with a respective one of the plurality of consumers, by an ACH transfer.

In response, it is respectfully submitted that no such elements are recited in any of currently pending claims of the patent application. Accordingly, the Attorney for the Assignee does not understand the rejections set forth in the Office Action and requests that they be withdrawn. Dependent Claims 78-80 and 88-90 are directed to completing a payment to a payee with a consolidated check; however, none of these claims include the recitation that the consolidated payment is based upon a payment directive prior to completion of a transfer of funds from at least one of the plurality of deposit account to a second account. With respect of the rejections based on a debit directive, it is respectfully submitted that none of the pending claims recite a debit directive.

For at least these reasons, it is respectfully submitted that the currently pending claims satisfy the requirements of 35 U.S.C. § 112, first paragraph, and are fully supported by the Specification as filed. Upon the Examiner's request, Attorney for the Assignee will be happy to submit a chart that maps out the Specification support for the currently pending claims.

***Rejections Under 35 U.S.C. § 112, Second Paragraph***

In the Non-final Office Action, Claims 76-96 were rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. With respect to Claim 76 and its dependents, it was contended that it is unclear how the merchant relates to the payer and the payee. Additionally, it was contended that it is unclear if the merchant is a third party involved in the payment request. It was further contended that the recitation "based at least in part on at least one of" is vague and indefinite as it is unclear whether the applicant intends to include steps (i) and (ii). With respect to Claim 86-96, it was contended that the recitation of "system" is vague and indefinite because a system may be one of several different statutory classes of

invention. It was requested that the Applicants indicate on the record the statutory class of invention to which the system claims belong.

In the Amendment and Response filed on March 13, 2008, independent Claims 76, 86, and 96 were amended in order to clarify the scope of the claimed inventions. Specifically, independent Claims 76, 86, and 96 were amended to recite a merchant account scheme and a merchant credit limit that are “associated with the payee.” It is respectfully asserted that independent Claims 76, 86, and 96, as previously amended, adequately define the relationship of the merchant credit limit and the merchant account scheme to the payee. Additionally, independent Claims 76, 86, and 96 were amended to remove the recitation of “at least in part.” As discussed and agreed upon in the Examiner’s Interview conducted on March 11, 2008, it is respectfully asserted that independent Claims 76, 86, and 96, as previously amended satisfy the requirements of 35 U.S.C. § 112.

With respect to Claims 86-96, it is noted that the Examiner indicated in the Examiner’s Interview conducted on March 11, 2008 that the rejection would be withdrawn. Accordingly, it is respectfully submit that Claims 86-96 satisfy the requirements of 35 U.S.C. § 112.

#### **Claim Rejections Under 35 U.S.C. § 102**

In the Non-Final Office Action, Claims 76-96 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Pat. No. 5,220,501 to Lawlor et al. (hereinafter “*Lawlor*”). Specifically, the Office Action contends that *Lawlor* discloses a method and system that: receives a request to pay a payee on behalf of a payer; selects a form for crediting the payee based at least in part on at least one of (i) comparing a payer account number associated with the payer and the payee to a merchant account scheme, and (ii) comparing a payment amount associated with the received request to a merchant credit limit; and directed a payment to the payee in accordance with the selected form of crediting.

As discussed in the Examiner’s Interview conducted on March 11, 2008 and as argued in the Amendment and Response filed on March 13, 2008, it is respectfully assert that *Lawlor* does not teach or suggest “a merchant credit limit” and, therefore, does not teach or suggest

“comparing a payment amount associated with the received request to a merchant credit limit associated with the payee,” as recited by amended independent Claims 76, 86, and 96. As discussed on at least page 12, lines 9-12, and page 14, lines 14-18 of the Specification, a transaction may be compared to a merchant limit, also referred to as a merchant credit limit, to determine if the transaction amount exceeds the payment limit for the particular merchant or payee. Because the claimed invention comprises risk-based systems and methods (i.e., the funds are not required to be present in the account at the time the payment request is processed), such edits are performed to minimize risk.

It is respectfully asserted that *Lawlor* does not disclose, teach, or suggest this limitation. In particular, *Lawlor* fails to disclose any risk analysis or equivalent payment analysis to determine if a transaction amount exceeds a limit associated with the merchant. In fact, because *Lawlor* discloses a good funds transaction system where a debit is made only if funds are available (see, e.g., col. 11, lines 22-52, col. 33, lines 23-25, and col. 34, lines 35-36), *Lawlor* teaches away from the use of a payment limit associated with a merchant or payee.

Additionally, it is respectfully asserted that *Lawlor* does not teach or suggest “selecting a form of crediting the payee based on comparing a payer account number associated with the payer and the payee to a merchant account scheme associated with the payee,” as recited by amended independent Claims 76, 86, and 96. The cited portions of *Lawlor* merely disclose the payment of bills to a remittance center, who in turn pays payees (See *Lawlor* at col. 19, lines 9-11), and the processing of payment requests once a user exits a bill payment routine (See *Lawlor* at col. 49, lines 7-28). This language does not refer to a “payer account number associated with the payer and the payee,” which is the consumer’s account number with the payee or merchant, nor does it teach or suggest the validation of the customer account number to determine if it conforms to an account scheme associated with the payee or merchant. *Lawlor* does refer to a “user account,” but that is the user’s bank account with a financial institution and not a customer account of a consumer with a merchant (See *Lawlor* at col. 34, lines 10-15). Thus, *Lawlor* does not teach or suggest the selection of a form of crediting based on “comparing a payer account

number associated with the payer and the payee to a merchant account scheme associated with the payee,” as recited by amended independent Claims 76, 86, and 96.

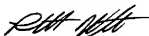
Accordingly, for at least the reasons stated above, it is respectfully submitted that *Lawlor* does not teach or suggest the limitations of amended independent Claims 76, 86, and 96, and therefore, Claims 76, 86, and 96 are in condition for allowance. Likewise, dependent Claims 77-85 and 87-95 are allowable as a matter of law in that they depend from an allowable independent claim notwithstanding their own recitation of patentable subject matter.

**Conclusion**

It is believed that each matter raised by the Non-final Office Action has been responded to. Allowance of the claims is respectfully solicited. It is not believed that any extensions of time or fees for addition of claims are required beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 19-5029.

If there are any issues which can be resolved by telephone conference or an Examiner's Amendment, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,



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